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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Paper No. 22

Application Number: 09/851,745
Filing Date: May 09, 2001
Appellant(s): AKERS ET AL.

Christopher J. Rourk
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 11, 2003.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that claims 1-35 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,924,074	Evans	7-1999
5,899,998	McGauley et al	5-1999
6,305,377	Portwood et al.	10-2001

6,370,841 Chudy et al. 4-2002

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,924,074 to Evans in view of U.S. Patent No. 5,899,998 to McGauley et al.

As per claim 1, Evans teaches a system for transferring electronic medical files comprising:

--the claimed record server having a medical record data file, the medical record data file having medical record data is met by the electronic medical record system that includes remote web servers (406, 408, 410, Fig. 24) with medical record information (see: column 12, lines 56-63);

--the claimed record client coupled to the record server, the record client receiving the medical record data file is met by the electronic medical record system that includes a server (406 Fig. 24) connected to client machines running application such as Microsoft Windows to access the data (see: column 14, lines 8-16); and

Evans fails to teach the claimed medical record data is encapsulated to prevent modification of the medical record data.

McGauley et al. teaches a method and system for maintaining and updating computerized medical records that use encryption to help protect and preserve the confidentiality of individual patient's medical information (see: column 6, lines 44-48).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include encryption of medical information as taught by McGauley et al. within the electronic medical record system as taught by Evans with the motivation of providing an efficient and cost-effective solution to transaction-oriented networking applications in outpatient medical information systems, thereby securing the integrity and reliability of transmitted medical record data (see: McGauley et al. column 4, line 65 to column 5, lines 2).

As per claim 2, Evans teaches the claimed record server further comprises a sync system verifying that the record client has received a sync file before transferring the medical record data file. This feature is met by the electronic medical record system including web servers (406, Fig. 24) that allow patient data to be transfer between external source as well as updating the patient record obviously suggesting that the comparing and checking of medical data take place to verify that an up-to-date medical record is available (see: column 3, lines 37-43 and column 5, lines 36-40).

As per claim 3, Evans teaches the claimed record server further comprises a tracking system updating a tracking record when the medical record data file is transferred. This feature is met by the tracking and description of patient data within the system (see: column 9, lines 2737).

As per claim 4, Evans teaches the claimed record client further comprises a tracking system updating a tracking record when the medical record data file is accessed. This limitation is met by the electronic medical record system which updates patient's records upon a nurses or physician entry of information into the system (see: column 5, lines 29-40).

As per claim 5, Evans teaches the claimed record client further comprises a remote data system, the remote data system generating medical record data. This limitation is met by the electronic medical record system that includes server (406 Fig. 24) that are connected to client machines running application such as Microsoft Windows to access and generating medical data (see: column 14, lines 8-16).

Evans fails to teach the claimed record client encapsulates the medical record data to prevent it from being modified.

McGauley et al. teaches a method and system for maintaining and updating computerized medical records that use encryption to help protect and preserve the confidentiality of individual patient's medical information (see: column 6, lines 44-48).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include encryption of medical information as taught by McGauley et al. within the electronic medical record system as taught by Evans with the motivation of providing an efficient and cost-effective solution to transaction-oriented networking applications in outpatient medical information systems, thereby securing the integrity and reliability of transmitted medical record data (see: McGauley et al. column 4, line 65 to column 5, lines 2).

As per claim 6, limitations with respect to the claimed record client system further comprises a detail encapsulation system receiving comment data and encapsulating the comment

data to prevent it from being modified are met by McGauley et al. is disclosure of the computerized medical records system that uses encryption to help protect and preserve the confidentiality of individual patient's medical information (see: column 6, lines 44-48). The motivation for combining the teachings of Evans and McGauley et al. is as given above for claim 1, and incorporated herein.

As per claim 7, the feature of the claimed record server further comprises a record storage system, the record storage system storing each version of the medical record data file received by the record server is met by the teaching of Evans of organizing and storing of patient medical records in which are made available for access by authorized personnel (see: column 2, lines 65 to column 3, lines 3).

As per claim 8, Evans teaches the claimed record server further comprises an excerpt transfer system, the excerpt transfer system receiving medical record excerpt data and transferring it to a predetermined recipient. This feature is met by the transferred patient data from the electronic medical records system to other healthcare providers (see: column 4, lines 64 to column 5, lines 8).

As per claim 9, Evans teaches the claimed notification system transferring notification data to a party regarding the availability of medical record data. This data is met by the acknowledgment by the healthcare provider that a patient's record has been reviewed and adding to the medical record any necessary instructions or recommendations for treatment (see: column 2, lines 45-58).

As per claim 10, Evans teaches the claimed a method for transferring electronic medical files comprising:

--the claimed assembling the medical record data into a medical record data file is met by the storing and organizing of patient records in a patient repository (see: column 3, lines 9-16);

--the claimed receiving a request to transfer the medical record data file is met by the point of care system issuing a request to transfer patient data (see: column 9, lines 39-53); and

--the claimed transferring the medical record data file to a remote location is met by the transferring of patient data between external sources (see: column 3, lines 36-42).

Evans fails to teach the claimed encapsulating medical record data to prevent it from being modified.

McGauley et al. teaches a method and system for maintaining and updating computerized medical records that use encryption to help protect and preserve the confidentiality of individual patient's medical information (see: column 6, lines 44-48).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include encryption of medical information as taught by McGauley et al. within the electronic medical record system as taught by Evans with the motivation of providing an efficient and cost-effective solution to transaction-oriented networking applications in outpatient medical information systems, thereby securing the integrity and reliability of transmitted medical record data (see: McGauley et al. column 4, line 65 to column 5, lines 2).

As per claim 11, Evans teaches the claimed transferring the medical record data file to the remote location further comprises transferring a sync file to the remote location. This limitation is met by the transferring of patient data between external sources (see: column 3, lines 36-42).

As per claim 12, Evans teaches the claimed assembling the medical record data into the medical record data file further comprises storing a tracking record with the medical record data

file. This feature is met by the electronic medical record system which stores and updates patient records upon a nurses or physician entry of information (see: column 3, lines 9-16 and column 5, lines 29-40).

As per claim 13, Evans teaches the claimed generating notification data at the remote location. This limitation is met by the acknowledgment by the healthcare provider that a patient's record has been reviewed and adding to the medical record any necessary instructions or recommendations for treatment (see: column 2, lines 45-58).

As per claim 14, Evans teaches the claimed accessing the medical record data file at the remote location (see: column 2, lines 45-47); and

--the claimed updating a tracking record to show that the medical record data file has been accessed at the remote location is met by the electronic medical record system which allows nurses and physician to access and update patient's records upon entry into the system (see: column 5, lines 29-40).

As per claim 15, Evans teaches the claimed receiving medical record data at the remote location (see: column 10, lines 18-23), and

--the claimed updating the medical record data file to include the medical record data is met by the electronic medical record system which allows nurses and physician to access and update patient's records upon entry into the system (see: column 5, lines 29-40).

Evans fails to teach the claimed encapsulating the medical record data to prevent the medical record data from being modified.

McGauley et al. teaches a method and system for maintaining and updating computerized medical records that use encryption to help protect and preserve the confidentiality of individual patient's medical information (see: column 6, lines 44-48).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include encryption of medical information as taught by McGauley et al. within the electronic medical record system as taught by Evans with the motivation of providing an efficient and cost-effective solution to transaction-oriented networking applications in outpatient medical information systems, thereby securing the integrity and reliability of transmitted medical record data (see: McGauley et al. column 4, line 65 to column 5, lines 2).

3. Claims 16-17, 19 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,924,074 to Evans in view of U.S. Patent No. 6,305,377 to Portwood et al.

As per claim 16, Evans teaches the claimed record server and record client coupled to the record server (see: column 14, lines 8-16).

Evans fails to teach the claimed distributing of medical supplies and receiving package data from the record server with verification data and correlating the verification data to the package data.

Portwood et al. teach a prescription distribution system including a server computer communicating with other prescriber computer to transfer prescription data to the server for validation, certification, and distribution (see: abstract, column 3, lines 43-49 and column 7, lines 35-37). It is respectfully submitted that prescriptions are a form of "medical supplies". Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to include the prescription distribution system as taught by Portwood et al. with the electronic

medical record system as taught by Evans with the motivation of streamlining and incorporating automatic mail ordering, billing, and other business aspects, such as prescription verification and delivery (see: Portwood et al. column 2, lines 9-13).

As per claim 17, Evans teaches the claimed tracking system that includes tracking and description of patient data within the system (see: column 9, lines 27-37).

Evans fails to teach the receiving of verification and incrementing order data. Portwood et al. teaches the claimed transferring of prescription data to the server for validation, certification, and distribution as well a ordering system for prescription refills for the patient (see: column 2, lines 44-46 and column 7, lines 35-37).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to include the prescription distribution system as taught by Portwood et al. with the electronic medical record system as taught by Evans with the motivation of streamlining and incorporating automatic mail ordering, billing, and other business aspects, such as prescription verification and delivery (see: Portwood et al. column 2, lines 9-13).

As per claim 19, Evans teaches the claimed record client further comprises a remote data system, the remote data system generating counseling data and transmitting the counseling data to the record server. This limitation is met by access of the patient record from any geographical location as well as providing prescription instruction to a patients record (see: column 2, lines 45-58).

As per claim 35, Evans teaches the record client further comprises an image data capture device that generates image data, and the verification data includes the image data. This features is met by the data source (370, Fig. 23) that comprises physical data (374, Fig. 23) such as paper

based records and photographs, and electronic mainframe data (376, Fig. 24). The converter (372, Fig. 24) receives information from the data source (370, Fig. 24) and transforms the information into an electronic format compatible with the EMR system. For example, to input physical data (374, Fig. 24) such as paper or image based data, into a patient record, the converter (372, Fig. 24) comprises a scanner to digitize the physical data into a binary file format for incorporation into the patient's record (see: column 12, lines 35-46).

4. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 5,924,074 to Evans in view of U.S. Patent No. 6,305,377 to Portwood et al. in further view of U.S. Patent No. 5,899,998 to McGauley et al.

As per claim 18, Evans in combination with Portwood et al. teaches a system with a record server that verifies the data in a medical record data file.

However, Evans in combination with Portwood et al. fails to teach the encapsulating of the verification data.

McGauley et al. teaches a method and system for maintaining and updating computerized medical records that use encryption to help protect and preserve the confidentiality of individual patient's medical information (see: column 6, lines 44-48).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include encryption of medical information as taught by McGauley et al. within the combination of the electronic medical record system as taught by Evans and the prescription distribution system as taught by Portwood et al. with the motivation of providing an efficient and cost-effective solution to transaction-oriented networking applications in outpatient

medical information systems, thereby securing the integrity and reliability of transmitted medical record data (see: McGauley et al. column 4, line 65 to column 5, lines 2).

5. Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,305,377 to Portwood et al. in view of U.S. Patent No. 5,924,074 to Evans.

As per claim 20, Portwood et al. teaches a method for distributing medical supplies comprising:

--the claimed storing package data corresponding to a sealed package is met by the data storage unit use to store patient data including prescription data (see: column 2, lines 60-66);

--the claimed transmitting the sealed package to a remote site is met by the prescription distribution system that enable quicker delivery of prescription at the patient's location (see: abstract and column 5, lines 7-10); and

--the claimed authorizing release of the package if the stored package data matches the received package data is met by the prescription delivery message system that includes a message receiving unit connected to the CPU to receive the prescription delivery message upon delivery of the prescription and the matching of prescription data (see: column 3, lines 36-41).

Portwood et al. fails to teach the claimed receiving the package data from the remote site.

Evans teaches a system for instant access to a patient's electronic medical record from any geographical location and the transferring and receiving patient record external sources (see: column 2, lines 45-47 and column 10, lines 18-23).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to include the electronic medical record system as taught by Evans with the prescription distribution system as taught by Portwood et al. with the motivation of streamlining

and incorporating automatic mail ordering, billing, and other business aspects, such as prescription verification and delivery (see: Portwood et al. column 2, lines 9-13).

As per claim 21, Portwood et al. teaches the claimed receiving the package data from the remote site further comprises: counseling a patient if the patient has not received the medical supplies before; and generating counseling data is met by the prescription message that includes instruction on how to take the medication or how to conduct various medical procedures (see: column 17, lines 17-22).

As per claim 22, Portwood et al. teaches the claimed incrementing order data after the package is released is met by the ordering of prescription refills which enable the system to keep track to increase or decrease a refill of a patient prescription (see: column 2, lines 44-47).

6. Claims 23, 28-29, 30-31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,924,074 to Evans in view of U.S. Patent No. 5,899,998 to McGauley et al.

As per claim 23, Evans teaches an electronic medical record system that includes remote servers (406, 408, 410, Fig. 24) with medical record information (see: column 12, lines 56-63). The remote servers are connected to client machines running applications such as Microsoft Windows to access (see: column 14, lines 8-16). In addition, the web servers (406, Fig. 24) allows patient data to be transfer between external source as well as updating the patient record upon a nurse or physician entry of information into the system (see: column 5, lines 29-40 and column 9, lines 27-37). This suggests that comparing and checking of medical is taking place to verify that an up-to-date medical record is available (see: column 3, lines 37-43 and column 5, lines 36-40). Evans further teaches a tiered password system to ensure patient confidentiality and

provides several levels of security for access to patient data this suggests a nurse with the authorization to view the entire patient record may only update certain aspects according to the level of authorization. (see: column 15, lines 9-32).

Evans fails to teach detail encapsulation system for receiving data and preventing it from being modified.

McGauley et al. Teaches a method and system for maintaining and updating computerized medical records that use encryption to help protect and preserve the confidentiality of individual patient's medical information (see: column 6, lines 44-48).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include encryption of medical information which is a form of encapsulation as taught by McGauley et al. within the electronic medical record system as taught by Evans with the motivation of providing an efficient and cost-effective solution to transaction-oriented networking applications in outpatient medical information system, thereby securing the integrity and reliability of transmitted medical record data (see: McGauley et al. column 4, lines 65 to column 5, lines 2).

As per claim 28, Evans teaches a electronic medical record system that transfers patient data from the electronic medical records system to other healthcare providers and between external sources (see: column 3, lines 36-42 and column 4, lines 64 to column 5, lines 8).

Evans fails to explicitly teaches extracting an excerpt of the electronic medical record data from the electronic medical record data file comprises removing user readable patient identifying data.

McGauley et al. Teaches a method and system for maintaining and updating computerized medical records that use encryption to help protect and preserve the confidentiality of individual patient's medical information (see: column 6, lines 44-48). The Examiner considers the encrypting of the patient medical information to include removing user readable patient identifying data to protect confidentiality of patient's medical information.

The obviousness of combining the teaching of McGauley et al. and Evans are discussed in the rejection of claim 23, and incorporated herein.

As per claim 29, Evans teaches an electronic medical record system that includes remote servers (406, 408, 410, Fig. 24) with medical record information (see: column 12, lines 56-63). The remote servers are connected to client machines running applications such as Microsoft Windows to access (see: column 14, lines 8-16). In addition, the web servers (406, Fig. 24) allows patient data to be transfer between external source as well as updating the patient record upon a nurse or physician entry of information into the system (see: column 5, lines 29-40 and column 9, lines 27-37). This suggests that comparing and checking of medical is taking place to verify that an up-to-date medical record is available (see: column 3, lines 37-43 and column 5, lines 36-40). Evans further teaches a tiered password system to ensure patient confidentiality and provides several levels of security for access to patient data this suggests a nurse with the authorization to view the entire patient record may only update certain aspects according to the level of authorization. (see: column 15, lines 9-32).

Evans fails to teach the encapsulating an electronic medical record file to prevent it from being modified and decrypting the encrypted encapsulated electronic medical record file at the remote location.

McGauley et al. Teaches a method and system for maintaining and updating computerized medical records that use encryption to help protect and preserve the confidentiality of individual patient's medical information (see: column 6, lines 44-48). The Examiner considers the encrypting of the patient medical information to include a means for decrypting the medical file at a remote location in order for the information to be added to view by an authorized user.

The obviousness of combining the teaching of McGauley et al. and Evans are discussed in the rejection of claim 23, and incorporated herein.

As per claim 30, Evans teaches an electronic medical record file is an image data file. This limitation is met by the patient data structure (210, Fig. 13) that maintain a pointer to a legacy files structure (219, Fig. 13) having patient data transmitted from the legacy data system (106, Fig. 1), such as an image of a patient chart (see: column 8, lines 57-60).

As per claim 31, Evans teaches the sync file is a patient file. This feature is met by the electronic medical record system including web servers (406, Fig. 24) that allow patient data to be transfer between external sources as well as updating the patient record (see: column 3, lines 37-43 and column 5, lines 36-40). The Examiner considers the updated patient record to be the sync file, which is already compared and checked to verify the availability of an up-to-date medical record.

As per claim 33, Evans teaches transferring the sync file comprises creating a patient folder. The limitation is met by the transferring of patient between external sources (see: column 3, lines 36-42). The Examiner considers the transferring of the patient record (sync file) to be creating a patient folder one the information is received at a remote location.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 24 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,924,074 to Evans.

As per claim 24, Evans teaches an electronic medical record system where upon the creation of a patient record, the patient locator (200, Fig. 13) creates a patient data structure (210, Fig. 13) having the PID and the patient's name (see: column 8, lines 29-31). The patient data structure (210, Fig. 13) maintains a pointer to an interface files structure (211, Fig. 13) having patient data transmitted from external sources (see: column 8, lines 36-38). In addition, the patient data structure (210, Fig. 13) may maintain a pointer to a legacy files structure (219, Fig. 13) having patient data transmitted from the legacy data system (106, Fig. 1), such as an image of a patient chart (see: column 8, lines 57-60).

As per claim 27, Evans teaches a electronic medical record system that transfers patient data from the electronic medical records system to other healthcare providers and between external sources (see: column 3, lines 36-42 and column 4, lines 64 to column 5, lines 8). In addition, Evans teaches the use of progress notes (144, Fig. 4) to summarize details of the patient's condition and to review the patient's progress over time (see: column 6, lines 31-36). The Examiner considers the progress notes (144, Fig. 4) to be transferred from healthcare providers to another.

9. Claims 25-26 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,924,074 to Evans.

As per claims 25-26, Evans teaches the transfer of patient data from the electronic medical records system to other healthcare providers as well as the updating of patient's record upon a nurses or physician entry of information into the system (see: column 4, lines 64 to column 5, lines 8, column 3, lines 36-42 and column 5, lines 29-40). In addition, Evans further teaches a tiered password system to ensure patient confidentiality and provides several levels of security for access to patient data (see: column 15, lines 9-32).

Although Evans fails to teach the remote system operates in an unattended mode that allows the electronic medical data to be transferred without operator input. Evans teaches that information is updated and transferred upon input by an authorized and the Examiner considers the feature of transferring data in an unattended mode to be merely automatically updating or transferring the data without an operator inputs and an old and well-known feature in the art. Therefore, it would have been obvious to a person of ordinary skill in the art to include automatically updating or transferring data without an operator inputs within the system as taught by Evans with the motivation of providing an up-to-date medical record to authorized personnel to better treat the patient.

As per claim 32, it is rejected for the same reasons set forth in claims 25-26.

10. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,924,074 to Evans and U.S. Patent No. 6,305,377 to Portwood et al. in view U.S. Patent No. 6,370,841 to Chudy et al.

As per claim 34, Evans teaches a record server and record client coupled to the record server (see: column 14, lines 8-16).

Evans fails to teach a data reader that reads the verification data from the package.

Chudy et al. teaches automated method for dispensing bulk medication that uses scanner device (129) for transmitting scanned code to the computer (119, Fig. 25) and generating a signal for computer (119, Fig. 25) to confirm that the package correspond to the patient's drug prescription information (see: column 14, lines 54-63).

One of ordinary skill in the art at the time the invention was made would have found it obvious to include the scanner device for reading and transmitting prescription information as taught by Chudy et al. within the electronic medical record system as taught by Evans with the motivation of storing a broad range of prescription information and the ability to fill patient prescription in rapid and efficient manner (see: column 1, lines 31-33).

(11) Response to Argument

In the Appeal Brief filed 11 July 2003, Appellant makes the following arguments:

(A) The Examiner fails to disclose determining whether a patient file having a predetermined patient data structure exists for a patient on a remote system; transferring the electronic medical data to the patient file if it is determined that it exist; creating the patient file with the predetermined patient data structure on the remote system if it is determined that the patient file does not exist on the remote system; and transferring the electronic medical data to the newly created patient file on the remote system if it is determined that the patient file does not exist on the remote system.

(B) The Examiner fails to teach the remote system operating in an unattended mode that allows the electronic medical data to be transferred without operator input.

(C) Evans fails to teach extracting an excerpt of the electronic medical record data from an electronic medical record data file at a first location and transmit the excerpt to a remote location while removing user-readable patient identifying data.

(D) Appellant argues encrypting data that is being transmitted between two points is not encapsulation of the medical record data to prevent modification.

(E) McGauley does not allow encrypted medical record data to be viewed or stored the encrypted data along with comment data separately from the medical record data file.

(F) Evans fails to disclose a tracking record for tracking data when a medical record data file is transferred or accessed.

(G) Evans fails to disclose receiving package data from the server with verification data as well as correlation the verification data to the package data.

(H) Portwood fails to disclose a sealed package, transmitting the sealed package to a remote site and authorizing release of the package or determining matches from received package data.

(I) Chudy fails to teach a data reader that verifies data from the seal package.

(J) Evans does not disclose verifying that a record client has received sync data before transferring the patient record.

Examiner will address Appellant's arguments in sequence as they appear in the brief.

Response to Argument (A) and (B):

In response to the first and second argument, the Examiner respectfully submits that Evans teaches an electronic medical record system where upon the creation of a patient record, the patient locator (200, Fig. 13) creates a patient data structure (210, Fig. 13) having the PID and the patient's name (see: column 8, lines 29-31). The patient data structure (210, Fig. 13) maintains a pointer to an interface files structure (211, Fig. 13) having patient data transmitted from external sources (see: column 8, lines 36-38). In addition, the patient data structure (210, Fig. 13) may maintains a pointer to a legacy files structure (210, Fig. 13) having patient data transmitted from the legacy data system (106, Fig. 1), such as an image of a patient chart (see: column 8, lines 57-60). Furthermore, Evans teaches that the electronic medical record system transfers patient data from the electronic medical system to other healthcare providers and between external sources (see: column 3, lines 36-42 and column 4, line 64 to column 5, line 8). This plainly shows that a patient record having a patient identification and data structure is created if one does not exist and patient record are also updated before it transferred to other healthcare providers (see: column 3, lines 36-42 and column 4, line 64 to column 5, line 8).

Evans also teaches that information is updated and transferred upon input by an authorized personnel and the Examiner considers the feature of transferring data in an unattended mode to be merely updating or transferring the data without an operator inputs.

Response to Argument (C):

In response to the third argument, the Examiner respectfully submits that Evans teaches a electronic medical record system that transfers patient data from the electronic medical records system to other healthcare providers and between external sources (see: column 3, lines 36-42 and column 4, lines 64 to column 5, lines 8). In addition, Evans teaches the use of progress notes

(144, Fig. 4) to summarize details of the patient's condition and to review the patient's progress over time (see: column 6, lines 31-36). The Examiner considers the progress notes (144, Fig. 4) to be equivalent to the comment data and this data is transferred from one healthcare provider to another. Furthermore, McGauley et al. teaches a method and system for maintaining and updating computerized medical records that use encryption to help protect and preserve the confidentiality of individual patient's medical information (see: column 6, lines 44-48). The Examiner considers the encrypting of the patient medical information to include removing user readable patient identifying data in order to protect confidentiality of patient's medical information. Moreover, the transferring of patient information without patient identifier is done for security purposes to also protect patient information from getting into the wrong hands.

Response to Argument (D) and (E):

In response to the fourth and fifth argument, the Examiner respectfully submits that the McGauley reference describes encryption of medical record for the purpose of preventing and preserving the confidentiality of individual patient's medical information. This is a clear illustration that medical record information is encrypted as a form of encapsulated to prevent modification. Furthermore, the Appellant describes on page 15, paragraph 36, in one particular embodiment, "record encapsulation system includes encryption algorithms that generates a value...". This directly shows that encryption is used to encapsulating a medical record. In addition, Evans teaches the use of progress notes (144, Fig. 4) to summarize details of the patient's condition and to review the patient's progress over time (see: column 6, lines 31-36) and a tiered password system to ensure patient confidentiality and providing several levels of security for access to patient data. This suggests a nurse with the authorization to view the entire patient

record may only update certain aspects according to the level of authorization. (see: column 15, lines 9-32).

Response to Argument (F):

In response to the sixth argument, the Examiner respectfully submits that Evans teaches tracking and description of patient data within the system (see: column 9, lines 27-37). It also seems that the Appellant directs Examiner to the wrong section of the Evans reference to argue the tracking system therefore this argument is unsupported.

Response to Argument (G) and (H):

In response to the seventh and eighth argument, the Examiner respectfully submits that Portwood teaches a data storage unit to store patient data including prescription information (see: column 2, lines 60-66). Portwood further teaches a prescription distribution system that enables quicker delivery of prescription (sealed package) at the patient's location (see: column 5, lines 7-10 and abstract). The delivery of a patient's prescription implies that the prescription must be sealed before it is delivered to the patient. In addition, Portwood teaches a prescription delivery message system that includes a message receiving unit connected to the CPU to receive the prescription delivery message upon delivery of the prescription and the matching of prescription data (see: column 3, lines 36-41). This also indicates a comparing and checking step takes place in order to send a delivery message stating the correct prescription was filled for the appropriate patient.

Response to Argument (I):

In response to the ninth argument, the Examiner respectfully submits that Chudy et al. teaches an automated method for dispensing bulk medication that uses scanner device (129) for

transmitting scanned code to the computer (119, Fig. 25) and generating a signal for computer (119, Fig. 25) to confirm that the package correspond to the patient's drug prescription information (see: column 14, lines 54-63). Chudy's scanner device is equivalent the reader device and is also used to verify that the scanned prescription information is accurate and corresponds to the appropriate patient.

Response to Argument (J):

In response to the tenth argument, the Examiner respectfully submits that Evans teaches an electronic medical record system including web servers (406, Fig. 24) that allow patient data to be transfer between external sources as well as updating the patient record (see: column 3, lines 37-43 and column 5, lines 36-40). The Examiner considers the sync file to be essentially an updated patient record as the record described in reference of Evans. This updated patient record involves the steps of comparing and checking to allow an up-to-date medical record to be available to physician.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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